

DELEGATE BEALL: Where does the other one come from?

DELEGATE MUDD: He is the judge.

DELEGATE BEALL: The chief judge of the Court of Appeals?

DELEGATE MUDD: One appointed by the Court of Appeals.

DELEGATE BEALL: Thank you.

THE CHAIRMAN: Are there any other delegates? Delegate Blair.

DELEGATE BLAIR: Delegate Mudd, on page 6, section 5.21, term of office of judge, line 24 and line 45, that particular provision disturbs me. Does it not appear that this provision would foster the electioneering by a judge or currying of favor by a judge for his return to office.

DELEGATE MUDD: You mean among the lawyers?

DELEGATE BLAIR: Yes, among lawyers.

DELEGATE MUDD: Yes, we think he will do that by being a good judge.

DELEGATE BLAIR: Independent of his being a good judge, it seems that that particular provision puts the lawyer on a spot. I do not think the provision is a good one because of the fact that—

THE CHAIRMAN: Delegate Blair, this is not the time for debate. If you have a question, you may put it.

DELEGATE BLAIR: Did your Committee consider this in the sense that it was possibly a bad provision to put in.

DELEGATE MUDD: Yes, there was some considerable discussion of this in our Committee and it is objectionable to several of the witnesses who appeared before us. I would say primarily the objection came from judges, not the lawyers.

The idea is that this secret poll of lawyers without being identified is constructive information that can be published for the benefit of the voters in evaluating an incumbent judge. We feel it is a service to the voters that the lawyers who should know the most about an incumbent judge can through secret ballot make available information and guidance for the public to help them exercise their vote for an incumbent judge. That is the purpose.

THE CHAIRMAN: Are there any further questions? Delegate Agnes Smith.

DELEGATE A. W. SMITH: Delegate Mudd, in section 5.20, line 18 you refer to an office in a political party. Would you define that, please.

DELEGATE MUDD: You mean the language, "a nonjudicial member of a commission may not hold any public office for profit or office in a political party while a member of a commission"?

DELEGATE A. W. SMITH: Yes.

DELEGATE MUDD: You want me to define what?

THE CHAIRMAN: What is an office in a political party, I think, is her question.

DELEGATE MUDD: If he is a member of the central committee or treasurer of the political party. That is the type of office we had in mind.

THE CHAIRMAN: Are there any further questions? Delegate Mitchell.

DELEGATE MITCHELL: Delegate Mudd, in section 5.14, beginning with line 45, there is the provision that if the governor fails to appoint one of the nominees within sixty days after receiving the list, his power to make the appointment shall end and the chief judge of the Court of Appeals shall appoint one of the nominees.

Did your Committee consider whether this was a violation of the doctrine of separation of powers? Is it not unusual for a judge to appoint a judge?

DELEGATE MUDD: No. As a matter of fact, as I think I mentioned in connection with the appointment of commissioners, in Illinois, I believe, it is the judges of the trial tier who appoint the judges sitting at the next tier, but I think, Delegate Mitchell, the possibility of this coming to pass under the mechanics of this proposal would be most remote.

The governor will have from two to five names from which to select and it is really not in there in my judgment to give the judge the power of appointment, but just to provide some manner of filling the vacancy in the event the governor did not exercise the appointive power.

THE CHAIRMAN: Delegate Mitchell.

DELEGATE MITCHELL: Why put it in at all? After all, although it has to be done, there are a lot of unconstitutional things done, sometimes, even by judges. It would seem to me it is better not to put that in at all because I think it is highly irregular for a judge to appoint a judge.